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Home and Community-Based Settings

All providers delivering Home and Community –Based Services (HCBS) must maintain full compliance with the 2014 HCBS Settings Rule, and must ensure they have the capacity to deliver services that meet federal regulations. Capacity may include, but is not limited to:

- **Transportation**
- **Supports for Employment Outcomes**
- **Appropriate Staffing Ratios**
- **Respect and Support for Peoples' Choices**

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Home and Community-Based Settings

Home and community-based settings must have all the following qualities based on the needs of the individual as indicated in their Person Centered Plan (PCP):

- **The setting is integrated and supports full access of individuals receiving Medicaid HCBS to the greater community**
 - Includes opportunities to seek employment & work in competitive integrated settings
 - Engage in community life
 - Control personal resources
 - Receive services in the community to the same degree of access as individuals not receiving Medicaid HCBS

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Home and Community-Based Settings

- **The setting is selected by the individual from setting options, including non-disability specific settings, and an option for a private room in a residential setting.**
- **The setting options are identified and documented in PCP and based on the individual's needs, preferences, and resources available for room and board.**

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Home and Community-Based Settings

- **Ensures an individual's rights of privacy, dignity and respect, and freedom from coercion and restraint**
- **Optimizes, but does not regiment individual initiative, autonomy, and independence in making life choices including, but not limited to, daily activities, physical environment, and with whom to interact.**
- **Facilitates individual choice regarding services and supports and who provides them.**

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Home and Community-Based Settings

In a provider –owned or controlled residential setting, in addition to the qualities previously specified, additional conditions must be met.

- **The setting is a specific physical place that can be owned, rented, or occupied under a legally enforceable agreement by the individual receiving services.**
- **The individual has , as a minimum, the same responsibilities and protections from eviction that tenants have under the tenant/landlord law.**
- **When landlord/tenant laws do not apply, the State must ensure a written residency agreement will be in place for each HCBS participant, and that the document provides protections that address the eviction process and appeals comparable to those provided under the jurisdiction's landlord/tenant law.**

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Home and Community-Based Settings Additional Conditions Continued...

Each individual has privacy in their sleeping or living unit

- **Units have lockable entrance doors by the individual. If more than one bedroom, each bedroom should be considered a unit and tenant should have a key to their lockable door**
- **Individuals sharing units have a choice of roommates in that setting**
- **Individuals have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement**
- **Individuals have the freedom and support to control their own schedules and activities**
- **Individuals have access to food at anytime**

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Home and Community-Based Settings Additional Conditions Continued...

- **Individuals are able to have visitors of their choice at any time**
- **The setting is physically accessible to the individual**

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Home and Community-Based Settings

Any modifications of the additional conditions specified previously must be supported by a specific assessed need and justified in the PCP. The following requirements must be documented in the PCP:

- **A specific and individualized assessed need (to make the change)**
- **Positive interventions and supports used prior to any modifications to the PCP**
- **Less intrusive methods of meeting the need that has been tried but did not work**
- **A clear description of the condition directly proportionate to the specific assessed need**
- **Established time limits for periodic reviews to determine if the modification is still necessary or can be terminated**

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Home and Community-Based Settings Requirements Continued...

- **Regular collection and review of data to measure the ongoing effectiveness of the modification**
- **Informed consent of the individual**
- **An assurance that interventions and supports will cause no harm to the individual**

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Home and Community-Based Settings

Settings That Are Not Home and Community-Based

Settings that are presumed to have the qualities of an institution:

- **Any setting located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment**
- **Any setting located in a building that is on the grounds of, or immediately adjacent to a public institution**
- **Any other setting that has the effect of isolating individuals receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS**

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For more information about the HCBS Settings Rule, please visit the CMS website at:

<https://www.medicaid.gov/medicaid/hcbs/guidance/index.html>

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